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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,777

12/07/2005

Hiroaki Dei

8017-1180

4813

466 7590 03/23/2009

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EXAMINER

PHAM, TIMOTHY X

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

03/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 62-74, 80-102, and 108-110 drawn to an image data communication system, an image data communication method, an image data distribution device, and an image data reception device of performing moving picture images data by a distribution/reception device at a time of handover (Figure 1), classified in class 725, subclass 93, and class 445, subclasses 414.
 - II. Claims 75-79, 103-107, drawn to an image data communication system and an image data communication method including a radio network monitor device for monitoring and controlling the state of a radio transmission line (Figure 7), class 725, subclass 116;

The inventions are distinct, each from the other because of the following reasons:

Inventions I, and II related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as sequentially distributing a plurality of sets of identical moving picture image data with prescribed time differences; receives over a prescribed interval said plurality of sets of identical moving picture image data having prescribed time differences; reconstruct moving picture image data. Invention II has separate utility such as performing a monitoring the state of a radio transmission line and implementing setting of prescribed control on transmission line. See MPEP § 806.05(d).

In the instant case, the invention of group I as claimed recites a method/system and a distribution/reception device for controlling the moving image data during handover whereas invention of group II as claimed recites a radio network monitor device for monitoring the state of a radio transmission line that is a portion of said transmission line performs prescribed control setting on said transmission line for sets of identical moving picture image data that are transmitted from said image data distribution device according to the state of said radio transmission line. The two inventions have mutually exclusive features as stated, can have material different design, mode of operation, function, or effect, and do not overlap in scope due to the mutually exclusive features. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case, monitoring the state of a radio transmission line that is a portion of transmission line performs prescribed control setting on transmission line for sets of identical moving picture image data that are transmitted from image data distribution device (invention II) can be practiced to distribute a plurality of sets of identical moving picture image data with prescribed time differences without all the method/system limitations drawn in invention I.

Conclusion

2. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained.

Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. Failure to do so may result in a loss of the right to rejoinder. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY PHAM whose telephone number is (571)270-7115. The examiner can normally be reached on Monday-Friday; 7:30AM-5:00PM.

Art Unit: 2617

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent P. Harper can be reached on 571-272-7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Timothy Pham/
Examiner, Art Unit 2617

/VINCENT P. HARPER/
Supervisory Patent Examiner, Art Unit
2617